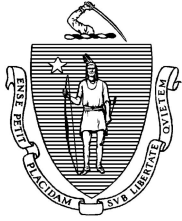


[Senate, March 31, 2009 – Text of the Senate Bill providing responsible reforms in the pension systems (Senate, No. 2025), printed as amended.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT PROVIDING RESPONSIBLE REFORMS IN THE PENSION SYSTEM.

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 **SECTION 1.** Section 1 of chapter 32 of the General Laws is hereby amended by
2 striking out, in lines 397 to 401, inclusive, as appearing in the 2006 Official Edition, the words:-
3 “Regular Compensation”, during any period subsequent to December thirty-first, nineteen
4 hundred and forty-five, shall mean the salary, wages or other compensation in whatever form,
5 lawfully determined for the individual service of the employee by the employing authority, not
6 including,
7 and inserting in the place thereof the following words:-”Regular Compensation”, during any
8 period subsequent to July 1, 2009, shall mean the salary, wages or other compensation in
9 whatever form, lawfully determined for the individual service of the employee by the
10 employing authority, not including, regardless of federal taxability, commissions, indirect

11 payments, in-kind payments or any payments for such items as housing, lodging, travel,
12 annuities or other retirement benefits,

13 **SECTION 2.** Section 4 of said chapter 32 is hereby amended by striking out, in lines 5
14 to 7, inclusive, as so appearing, the words:- “,provided, that he shall be credited with a year of
15 creditable service for each calendar year during which he served as an elected official”

16 **SECTION 3.** Subdivision (1) of said section 4 of said chapter 32 is hereby amended by
17 striking out paragraphs (o) and (o ½), as so appearing, and inserting in place thereof the
18 following paragraph:-

19 (o) Notwithstanding any general or special law to the contrary, an individual who serves
20 as an unpaid municipal, county or state employee, or an individual who serves as an unpaid
21 elected or appointed municipal, county or state official, or an individual who serves as an
22 unpaid special county employee, special municipal employee or special state employee, as
23 defined in section 1 of chapter 268A, shall not be permitted to apply creditable service as a
24 result of serving in that position in order to increase his allowable retirement allowance under
25 this chapter.

26 **SECTION 3A.** Said subdivision (1) of said section 4 of said chapter 32 is hereby further
27 amended by inserting after paragraph (o) the following paragraph:-

28 (o ¾) Notwithstanding any general or special law to the contrary, any municipal, county
29 or state employee who receives compensation of less than \$5,000 annually shall not be
30 permitted to apply creditable service as a result of service in a position paying less than \$5,000
31 annually which occurs on or after January 1, 2010, in order to increase his allowable retirement
32 allowance under this chapter.

33 **SECTION 4.** Subdivision (2) of section 5 of said chapter 32 as appearing in the 2006

34 Official Edition, is hereby amended by adding the following paragraph:-

35 (e) Notwithstanding and general or special law to the contrary, a person who has been a member
36 of 2 or more systems, and who, on or after January 1, 2010, has received regular compensation
37 from 2 or more governmental units concurrently, shall, upon retirement, receive a
38 superannuation retirement allowance to become effective on the date of retirement that is equal
39 to the sum of the benefits calculated pursuant to this section as though the member were retiring
40 solely from each system; provided, however, that this paragraph shall not apply to a member
41 who has received part-time creditable service in 1 or more systems; and provided further that,
42 notwithstanding paragraph (c) of subdivision (8) of section 3, each system shall pay the
43 superannuation retirement allowance attributable to membership in that system to the member.

44 **SECTION 5.** Section 7 of said chapter 32, as so appearing, is hereby amended

45 by inserting after the word “greater”, in line 73, the following words:-“;provided,
46 however, that if on the date such injury was sustained or such hazard was undergone, the
47 individual was in a temporary or acting position, the amount to be provided under this
48 subdivision shall be based on the average annual rate of the individual’s regular
49 compensation during the previous 12-month period for which he last received regular
50 compensation immediately preceding the date his retirement allowance becomes
51 effective; provided further, that if the individual was in a temporary or acting position,
52 the board may review the severity of the injury or hazard and the circumstances
53 surrounding the injury or hazard and may authorize a yearly amount of pension equal to
54 72 per cent of the annual rate of his regular compensation on the date such injury was
55 sustained or such hazard was undergone;”

56 **SECTION 6.** Section 10 of said chapter 32, as so appearing, is hereby amended by
57 striking out, in line 4, the words “,or fails of nomination or re-election”.

58 **SECTION 7.** Said section 10 of said chapter 32, as so appearing, is hereby further
59 amended by striking out, in lines 7 to 9, inclusive, the words “or fails of nomination or re-
60 election, or fails to become a candidate for nomination or re-election,”.

61 **SECTION 8.** Said section 10 of said chapter 32, as so appearing, is hereby further
62 amended by striking out, in lines 50 and 51, the words “fails of nomination or re-election, or”.

63 **SECTION 8A.** Said section 10 of said chapter 32, as so appearing, is hereby further
64 amended by striking out, in line 79, the word “six” and inserting in place thereof the following
65 figure:- 10.

66 **SECTION 8B.** Said chapter 32 is hereby further amended by inserting after section
67 22D the following new section:-
68 Section 22E. Notwithstanding any general or special law to the contrary, a pension impact
69 statement shall be filed not later than 30 days after the effective date of any law that affects the
70 commonwealth's pension liability, as defined in section 1, by changing the benefits or
71 contributions of classes of members including, but not limited to, early retirement incentive
72 programs. The pension impact statement shall be prepared or approved by the actuary of the
73 public employee retirement administration commission and shall analyze, study, and evaluate
74 the costs and the actuarial liabilities attributable to such change. The actuary shall file the
75 pension impact statement with each retirement system to which any portion of the change in
76 liability is attributable and shall send a copy to the secretary of administration and finance and
77 the house and senate committees on ways and means. The actuary may subsequently revise the
78 estimates in a pension impact certificate and revise the required contribution schedule it requires
79 accordingly.

80 **SECTION 8C.** Paragraph (e) of subdivision 2A of section 23 of said chapter 32, as so
81 appearing, is hereby amended by adding the following clause: -

82 “(xv) not award any compensation package that includes incentive payments for
83 performance in any year in which the total value of the fund is reduced from the total value
84 thereof in the preceding year.

85 **SECTION 9.** Section 111 of chapter 182 of the acts of 2008 is hereby amended by
86 adding the following paragraph:-

87 The commission shall review contributory retirement systems and make comprehensive
88 recommendations to reform current laws and practices. Issues the commission shall examine
89 shall include, but not be limited to: 1) current and future employee pension plans and
90 contribution structures; 2) termination allowances pursuant to section 10 of chapter 32 of the
91 General Laws; 3) group classification systems; 4) capping annual pension benefits; 5) penalties
92 for pension fraud; 6) eligibility and level of benefits for employees who participate under 2 or
93 more retirement systems; 7) qualifications for credit for service pursuant to section 4 of said
94 chapter 32, including minimum compensation limits for officials to be eligible for credit for
95 service. The commission shall prepare a report of its findings and recommendations, including
96 any drafts of legislation necessary to put its recommendations into effect, and file the same with
97 the joint committee on public service no later than September 1, 2009.

98 **SECTION 10.** Notwithstanding any general or special law to the contrary, the
99 Massachusetts Bay Transportation Authority or any successor authority shall enter into an
100 agreement to establish retirement or pension benefits or amend existing retirement or pension
101 benefits so that an employee hired after the effective date of the agreement or amendment shall
102 not receive a retirement or pension benefit prior to the completion of 25 years of credited
103 pension service and before he has attained 55 years of age. The Massachusetts Bay
104 Transportation Authority may authorize such an employee to retire prior to attaining age 55 if :

105 (i) the employee is entitled to a disability pension under the Massachusetts Bay Transportation
106 Authority retirement system; or (ii) the employee has earned the maximum percentage allowed
107 under the retirement formula of the Massachusetts Bay Transportation Authority retirement
108 system and the employee waives, until attaining age 55, his right to collect a pension and
109 retirement benefit otherwise due at the time of retirement.

110 **SECTION 11.** Notwithstanding any special or general law to the contrary, any amount,
111 benefit or payment included in the definition of “regular compensation” by law or by regulation
112 on June 30, 2009, and included in any applicable collective bargaining agreement or individual
113 contract for employment in effect on June 30, 2009, shall continue to be included in the
114 definition of compensation.

115 **SECTION 12.** Section 8A shall apply to persons initially classified as members of
116 Group 1, Group 2 or Group 4 pursuant to section 3 of chapter 32 of the General Laws on or after
117 the effective date of this act.

118 **SECTION 13.** Except as expressly provided otherwise and notwithstanding subdivision
119 (5) of section 25 of chapter 32 of the General Laws, this act shall apply to all members of
120 retirement systems who retire after its effective date.

121 **SECTION 14.** Section 1 shall take effect on July 1, 2009.